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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/575,345

03/26/2007

Randell L. Mills

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22852

7590

03/31/2009

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
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EXAMINER

NGUYEN, DUNG T

ART UNIT

PAPER NUMBER

2828

MAIL DATE

DELIVERY MODE

03/31/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/575,345	Applicant(s) MILLS, RANDELL L.	
	Examiner DUNG T. NGUYEN	Art Unit 2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-148 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24, 31,45-49, 51-53, 58,66- 67, 84, 85, 105-137, 141, 142, and 145-147 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/19/07</u> . | 6) <input type="checkbox"/> Other: ____. |

Continuation of Disposition of Claims: Claims withdrawn from consideration are 25-30,32-44,50,54-57,59-65,68-83,86-104,138-140,143,144 and 148.

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OFFICE ACTION

Election/Restrictions

Applicant's election with traverse of Species 1 in the reply filed on 2/27/09 is acknowledged. The traversal is on the ground(s) that the Examiner has failed to show that examining the species together would constitute a serious burden. This is not found persuasive because as stated in the election/restriction requirement sent on 01/27/09, Species 1 through 6 are distinct different inventions.

Looking at MPEP 808.02, elements (A) and (C) is defined as follows:

(A) Separate classification thereof : This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification.

(C) A different field of search : Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes/subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together.

As noted, (A) notes that there is separate classification where the inventions are a separate subject for inventive effort; patents are classified by subclass, therefore each subclass can be deemed a separate subject for inventive effort. (C) gives as an example of different fields of search "searching different classes/subclasses." Additionally, searching is done primarily by subclasses, rather than broadly by class. See Any U.S. Patent, where the "Field of Search" on the face of the patent lists subclasses that were searched. Thus, that the inventions herein belong to different subclasses is enough to show that they have a separate classification, are a separate subject of inventive effort, and require different fields of search. Thus both sections (A) and (C) of MPEP 808.02 appear to be satisfied.

The requirement is still deemed proper and is therefore made FINAL.

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Claim Objections

Claims 109, 112, 116, 141 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claims 109, 112, 116, 141 have not been further treated on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 66, 145 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: there are no provided structural relationship between a laser medium, a cavity, and a power source. Additionally, it is not clear that the claim laser medium comprises only Hydrogen (?) and how the claimed power source forms an inverted population in an energy level of Hydrogen (?).

Claims 2-24, 31,45-49, 51-53, 58, 67, 84, 85, 105-137, 141, 142, and 146-147 are also found rejected due to their dependency of above claims.

Communication Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung (Michael) T Nguyen whose telephone number is (571) 272-1949. The examiner can normally be reached on 8:30 - 17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Min Harvey can be reached on (571) 272-1835. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-1835.

Michael Dung Nguyen

Primary Examiner

/Dung (Michael) T Nguyen/

Primary Examiner, Art Unit 2828